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Refund
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ALLISON JOHNSON, P. A.

Attorney at Law
6016 Logan Ave. S.
Minneapolis, Minnesota 55419

Telephone (612) 861-8621
Facsimile (612) 861-8628

December 11, 2002

By Facsimile

Assistant Commissioner for Patents
Washington, D.C. 20231
ATTN: Refund Section
Financial Accounting Division
Office of Finance

Re: REQUEST FOR REFUND UNDER 37 CFR 1.26

Dear Sir:

Pursuant to 37 CFR 1.26, we request a refund of the \$110 fee that was charged to Deposit Account No. 501,171 on November 15, 2002, and referenced Attorney Docket No. 5416USA2A and Posting Ref. Txt 09867046. The following is submitted in support of this request.

On November 15th Deposit Account No. 501,171 was charged \$110. The Deposit Account Statement indicates that this \$110 fee was assigned Fee Code 1251 (i.e., the fee for a one month extension of time) and references Attorney Docket No. 54160USA2A and Posting Ref. Txt 09867046.

On October 3rd, the United States Patent and Trademark Office mailed a Notice of Non-Compliance of Appeal Brief. The Notice included a statement that a response had to be filed within 30 days or one month whichever was longer. Under 37 CFR 1.7, if a day for taking any action in the United States Patent and Trademark Office falls on a Saturday, Sunday or a Federal holiday, the action may be taken on the next succeeding business day that is not a Saturday, Sunday or Federal holiday. November 3rd fell on a Sunday. On Monday, November 4th, a Response to a Notice of Non-Compliance of Appeal Brief was submitted. Accordingly, the Response was timely submitted and no extension of time was required. In light of the above, it is respectfully submitted that a refund of the \$110 should be made to Deposit Account No. 501,171.

Assistant Commissioner for Patents
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Thank you for your assistance in this matter. Please contact the undersigned if any additional information is needed.

Respectfully submitted,


Allison Johnson